

Vermillion, Inc.
120 Northeastern Boulevard
Nashua, NH 03062
EPA ID No. NHD986485704

**ADMINISTRATIVE ORDER
No. WMD 03-12**

July 17, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Vermillion pursuant to RSA 147-A:14. This Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH 03301.
2. Vermillion, Inc. ("Vermillion") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on May 29, 2001. Vermillion was formerly known as Eastern Rainbow, Inc., which was the surviving entity of the merger of Eastern Rainbow, Inc. and Souhegan Color, Inc. on January 5, 2000. On May 29, 2001, Eastern Rainbow, Inc. changed its name to Vermillion. Vermillion has a mailing address of, and operates a facility located at, 120 Northeastern Boulevard, Nashua, NH 03062.

C. STATEMENT OF FACTS AND LAW

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Vermillion is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on March 13, 2002, stating a change of company name from Souhegan Color, Inc. to Vermillion. EPA Identification Number NHD986485704 was originally assigned to Souhegan Color, Inc. for the site located at 120 Northeastern Boulevard, Nashua, NH on September 30, 1993.
3. On April 17, 2003, DES personnel conducted an inspection (the "Inspection") of the site located at 120 Northeastern Boulevard, Nashua, NH (the "Facility"). The purpose of the Inspection was to determine Vermillion's compliance status relative to RSA 147-A and the Hazardous Waste Rules.

4. During the Inspection, DES personnel observed hazardous wastes stored in the main hazardous waste storage area (the "Compressor Room"), and in the production area (the "Press Room").
5. Env-Wm 504.02(d) requires generators to notify DES verbally or in writing of any changes to the information provided in Env-Wm 504.02(b)(1), (2), (4), (7), (8), or (9) within 30 days of the effective date of any change.
6. Vermillion did not notify DES of the change in generator name at the Facility until March 13, 2002. According to DES records, from September 30, 1993 to March 13, 2002, Souhegan Color, Inc. was the notified generator at the Facility. According to the Secretary of State's Office, prior to January 5, 2000, the registered corporation name at the Facility was Souhegan Color, Inc.; from January 5, 2000 to May 29, 2001, was Eastern Rainbow, Inc.; and since May 29, 2001, has been Vermillion.
7. Env-Wm 507.01(a)(3) requires hazardous waste to be placed in containers or tanks that are closed at all times except to add or remove waste.
8. During the Inspection, DES personnel observed two (2) 55-gallon containers of hazardous waste located in the Compressor Room that were not closed. [See the attached Hazardous Waste Container Inventory ("Inventory")].
9. Env-Wm 507.03(a)(1)a. requires containers and tanks to be marked with the beginning accumulation date when they are first used to store hazardous waste.
10. During the Inspection, DES personnel observed three (3) 55-gallon containers of hazardous waste located in the Compressor Room that were not marked with the beginning accumulation date. (See the attached Inventory).
11. Env-Wm 507.03(a)(1)b., c., and d. require containers and tanks used for the storage of hazardous waste to be clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number.
12. During the Inspection, DES personnel observed three (3) 55-gallon containers of hazardous waste located in the Compressor Room that were not marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number. (See the attached Inventory).
13. Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements, requires full quantity generators to conduct inspections of the Facility, including the hazardous waste storage area, and to document the inspections.
14. At the time of the Inspection, Vermillion was not conducting and documenting inspections of the Compressor Room.
15. Env-Wm 509.02(a)(2), which references 40 CFR Part 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program for its employees responsible for handling hazardous waste.

16. At the time of the Inspection, Vermillion did not have a personnel training program and was not providing hazardous waste training to employees responsible for handling hazardous waste.
17. Env-Wm 509.02(a)(4), which references 40 CFR Part 265, Subpart C, Preparedness and Prevention, requires full quantity generators to maintain spill control equipment near hazardous waste storage areas.
18. At the time of the Inspection, Vermillion did not have spill control equipment near the Compressor Room.
19. Env-Wm 509.02(a)(5), which references 40 CFR Part 265, Subpart D, Contingency Plan and Emergency Procedures, requires full quantity generators to maintain a contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.
20. At the time of the Inspection, Vermillion did not have a hazardous waste contingency plan.
21. Env-Wm 509.02(b) requires a list of the steps to take in the event of an emergency and emergency numbers to be posted at the telephone nearest to each hazardous waste storage area.
22. During the Inspection, DES personnel confirmed that Vermillion did not have an emergency phone posting located at the telephone nearest to the Compressor Room.
23. Env-Wm 509.03 requires that all satellite storage areas be located at or near any point of generation where the wastes initially accumulate and be under the control of the operator of the process generating the waste.
24. At the time of the Inspection, Vermillion was handling two (2) 55-gallon containers of hazardous waste located in the Compressor Room as satellite storage containers; however the location of these containers did not meet the definition of "at or near the point of generation."
25. Env-Wm 509.03(b) requires that satellite handlers of hazardous waste receive initial hazardous waste training and receive review training every three (3) years.
26. At the time of the Inspection, Vermillion was not providing hazardous waste training to employees responsible for handling satellite storage containers of hazardous waste.
27. Env-Wm 509.03(d) requires hazardous waste to be placed in satellite storage containers that are closed at all times except to add or remove waste.
28. During the Inspection, DES personnel observed two (2) 25-gallon satellite storage containers of hazardous waste located in the Press Room that were not closed. (See the attached Inventory).

29. Env-Wm 509.03(g) requires containers used for the satellite storage of hazardous waste to be clearly marked with the words "hazardous waste", and words that identify the contents of the container.
30. During the Inspection, DES personnel observed four (4) 25-gallon satellite storage containers of hazardous waste located in the Press Room that were not marked with the words "hazardous waste", and words that identify the contents of the container. (See the attached Inventory).
31. Env-Wm 510.02(d) requires that the generator retain one (1) copy of the manifest, give five (5) copies to the transporter, and forward one (1) copy to the destination state and one (1) copy to DES within five (5) days of shipment.
32. At the time of the Inspection, Vermillion had not submitted five (5) hazardous waste manifests to DES, including Manifest No. MAM652174, dated August 30, 2001; Manifest No. MAQ011739, dated October 31, 2001; Manifest No. MAQ071682, dated May 6, 2002; Manifest No. NHH0048289, dated September 30, 2002; and Manifest No. NHH0056368, dated November 14, 2002.
33. Env-Wm 510.03(a) requires that manifests contain all of the information required in the Appendix to 40 CFR Part 262, 7-1-99 edition.
34. Following a review of Vermillion's hazardous waste manifests from March 2000 through March 2003, DES personnel discovered that on five (5) occasions, Vermillion used an incorrect EPA ID number and an incorrect generator name on the manifests.
35. Env-Wm 512.01(a)(1) requires that the generator keep all manifest copies for three (3) years from the date of signature by the generator.
36. At the time of the Inspection, Vermillion did not have on file copies of six (6) hazardous waste manifests including five (5) original generator copies and one (1) copy certified by the designated facility.
37. Env-Wm 1102.03(c)(1) requires universal waste handlers to store universal waste in containers that are closed, except when universal waste is being added to or removed from the container.
38. During the Inspection, DES personnel observed two (2) containers of universal waste lamps located in the Dark Room that were not closed.
39. Env-Wm 1112.03(a) requires universal waste handlers to store universal waste lamps in containers.
40. During the Inspection, DES personnel observed one (1) bundle of universal waste lamps located in the Dark Room that was not stored in a container.

41. Env-Wm 1112.04 requires universal waste handlers of lamps to clearly label each lamp or container holding universal waste lamps with any of the following: "Universal Waste – Lamps"; "Waste Lamps"; or "Used Lamps".

42. During the Inspection, DES personnel observed two (2) containers and one (1) bundle of universal waste lamps located in the Dark Room that were not labeled.

D. DETERMINATION OF VIOLATIONS

1. Vermillion has violated 504.02(d) by failing to notify DES verbally or in writing of the change in the generator name at the Facility within 30 days of the effective date of the change.

2. Vermillion has violated 507.01(a)(3) by failing to place hazardous waste in containers or tanks that are closed at all times except to add or remove waste.

3. Vermillion has violated 507.03(a)(1)a. by failing to mark each hazardous waste container or tank with the beginning accumulation date when they are first used to store hazardous waste.

4. Vermillion has violated Env-Wm 507.03(a)(1)b., c., and d. by failing to mark each hazardous waste container with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number when they are first used to store hazardous waste.

5. Vermillion has violated Env-Wm 509.02(a)(1) by failing to conduct inspections of the Facility, including the hazardous waste storage area.

6. Vermillion has violated Env-Wm 509.02(a)(2) by failing to maintain a personnel training program and to adequately train all personnel handling hazardous waste.

7. Vermillion has violated Env-Wm 509.02(a)(4) by failing to maintain spill control equipment within 100 feet of the hazardous waste storage area.

8. Vermillion has violated Env-Wm 509.02(a)(5) by failing to maintain a contingency plan at the Facility.

9. Vermillion has violated Env-Wm 509.02(b) by failing to post emergency information at the telephone nearest to the hazardous waste storage area.

10. Vermillion has violated Env-Wm 509.03 by managing two (2) containers of hazardous waste as satellite storage containers when the storage area failed to meet the definition of a satellite storage area (*i.e.*, at or near the point of generation).

11. Vermillion has violated Env-Wm 509.03(b) by failing to train all personnel responsible for handling satellite storage hazardous waste containers.

12. Vermillion has violated Env-Wm 509.03(d) by failing to place hazardous waste in satellite storage hazardous waste containers that are closed at all times except to add or remove waste.

13. Vermillion has violated Env-Wm 509.03(g) by failing to mark each satellite storage hazardous waste container with the words "hazardous waste", and words that identify the contents of the container.
14. Vermillion has violated Env-Wm 510.02 by failing to submit copies of five (5) hazardous waste manifests to DES.
15. Vermillion has violated Env-Wm 510.03(a) by failing to use the correct EPA ID number and generator name on five (5) hazardous waste manifests.
16. Vermillion has violated Env-Wm 512.01(a)(1) by failing to retain copies of six (6) manifests, including five (5) original generator copies and one (1) copy certified by the designated facility.
17. Vermillion has violated Env-Wm 1102.03(c)(1) by failing to close universal waste lamp containers.
18. Vermillion has violated Env-Wm 12.03(a) by failing to store universal waste lamps in containers.
19. Vermillion has violated Env-Wm 1112.04 by failing to label universal waste lamp containers.

E. ORDER

Based on the above findings, DES hereby orders Vermillion as follows:

Submit a subsequent notification form to DES to document the change in generator name at the Facility from Souhegan Color, Inc. to Vermillion, which took place May 29, 2001.

COMPLETED

Note: On March 13, 2002, Vermillion submitted a subsequent notification form to DES.

2. Ensure that hazardous waste containers are properly sealed, and bungs or lids are closed except when wastes are actually being added to or removed from the container, as specified in Env-Wm 507.01(a)(3).

IMMEDIATELY

Note: During the April 17, 2003 Inspection, Vermillion Press Foreman, Al Provost, closed one of the two containers of hazardous waste that were open.

3. Ensure that all hazardous waste containers and tanks are clearly marked with the beginning date of accumulation, as specified in Env-Wm 507.03(a)(1)a.

IMMEDIATELY

Note: During the April 17, 2003 Inspection, Mr. Provost labeled one container with the accumulation date.

4. Ensure that all hazardous waste containers and tanks are clearly marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number, as specified in Env-Wm 507.03(a)(1)b., c., and d.

IMMEDIATELY

Note: During the April 17, 2003 Inspection, Mr. Provost labeled three containers of hazardous waste with the words "Hazardous Waste" and words that identify the contents; and labeled one container with the waste number.

5. Develop and implement a general inspection program, as specified in Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements. This program must provide for, at a minimum, weekly inspections of areas where containers of hazardous wastes are stored.

COMPLETED

Note: On April 21, 2003, Vermillion submitted a copy of their inspection checklist to be used in their general inspection program and a copy of the first completed inspection of the Compressor Room.

6. Develop and maintain a personnel training program as specified in Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, including:
- a. Ensure that all personnel handling hazardous waste receive initial hazardous waste management training and annual updates of their training [40 CFR 265.16(c)]; and
 - b. Ensure that the following documents and records are maintained at the Facility:
 - 1 Job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job;
 - 2. A written job description, including requisite skills, education and duties, for positions with hazardous waste management duties; and,
 - 3. Documentation that training has been completed.

60 DAYS

7. Maintain spill control equipment within 100 feet of the hazardous waste storage area, as specified in Env-Wm 509.02(a)(4). **COMPLETED**

Note: During the April 17, 2003 Inspection, Mr. Provost placed spill control equipment in the Compressor Room.

8. Develop a site specific contingency plan as specified in Env-Wm 509.02(a)(5), which references 40 CFR 265 Subpart D, Contingency Plan and Emergency Procedures, including, but not limited to: **30 DAYS**

- a. A description of evacuation routes and alternate evacuation routes in case that evacuation is necessary [40 CFR 265.52(f)];
- b. Provisions that whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and a real extent of any released materials; assess possible hazards to human health or the environment; and notify local authorities if an evacuation is needed;

Provide for the treatment, storage, or disposal of hazardous waste resulting from the emergency;

- d. Ensuring that no waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
- e. Provide that all equipment has been cleaned and is fit before resumption of operations.

Note: On April 21, 2003, Vermillion submitted a copy of their new Contingency Plan, however, there remained deficiencies associated with this plan. Those deficiencies are listed above (a through e).

9. Ensure that a list of the steps to take in the event of an emergency are posted at the telephone nearest to each hazardous waste storage area, as specified in Env-Wm 509.02(b). **30 DAYS**

Note: On April 18, 2003, Vermillion submitted a copy of the emergency posting, however, there are still deficiencies associated with this posting.

10. Manage the two (2) 55-gallon containers of Roller Wash Solvent (one containing solvent hard-piped from the "40-inch Press" and the second containing solvent from the press room satellites) located in the Compressor Room according to the provisions of Env-Wm 509.02 (i.e. full storage area regulations). **IMMEDIATELY**

11. Ensure that all personnel handling satellite storage containers of hazardous waste receive initial hazardous waste management training and updates of their training every three years, as specified in Env-Wm 509.03(b). **60 DAYS**

12. Ensure that satellite storage containers are properly sealed, and bungs or lids are closed except when hazardous waste is actually being added to or removed from the container as specified in Env-Wm 509.03(d). **COMPLETED**

Note: During the April 17, 2003 Inspection, Mr. Provost closed the two (2) satellite storage containers of hazardous waste in the Press Room.

13. Ensure that all satellite storage containers are clearly marked with the words "Hazardous Waste", and words that identify the contents of the container, as specified in Env-Wm 509.03(g). **COMPLETED**

Note: During the April 17, 2003 Inspection, Mr. Provost labeled the four (4) satellite storage containers of hazardous waste in the Press Room.

14. Submit the following five (5) hazardous waste manifests to DES and properly retain and distribute manifest copies for future shipments of hazardous waste. **30 DAYS**

Manifest No. MAM652174, dated August 30, 2001

Manifest No. MAQ011739, dated October 31, 2001

Manifest No. MAQ071682, dated May 6, 2002

Manifest No. NHH0048289, dated September 30, 2002

Manifest No. NHH0056368, dated November 14, 2002

15. Ensure that the correct EPA ID number and generator name are used on all hazardous waste manifests. **COMPLETED**

Note: Starting in March 2001, Vermillion began using the correct EPA ID number and generator name on their hazardous waste manifests.

16. Obtain copies of the following six (6) hazardous waste manifests and properly retain these copies and copies of future shipments of hazardous waste. **30 DAYS**
- Manifest No. MAM700268, dated December 28, 2000
Manifest No. MAM652174, dated August 30, 2001
Manifest No. MAQ011739, dated October 31, 2001
Manifest No. MAQ071682, dated May 6, 2002
Manifest No. NHH0048289, dated September 30, 2002
Manifest No. NHH0056368, dated November 14, 2002
17. Ensure that universal waste containers are closed except when universal waste is actually being added to or removed from the container, as specified in Env-Wm 1102.03(c)(1). **COMPLETED**
- Note: During the April 17, 2003 Inspection, Mr. Provost closed the two (2) containers of universal waste lamps in the Dark Room.*
18. Ensure that all universal waste lamps are stored in containers, as specified in Env-Wm 1112.03(a). **COMPLETED**
- Note: During the April 17, 2003 Inspection, Mr. Provost placed the one (1) bundle of universal waste lamps into a container.*
19. Ensure that universal waste lamps or containers holding universal waste lamps are clearly marked with one of the following: "Universal Waste – Lamps"; "Waste Lamps"; or "Used Lamps", as specified in Env-Wm 1112.04. **COMPLETED**
- Note: During the April 17, 2003 Inspection, Mr. Provost labeled the three (3) containers of universal waste lamps.*
20. Submit a written status report to DES within thirty-five (35) calendar days, and a second report within sixty-five (65) calendar days of the date of this Order, certifying that corrective measures have been implemented and compliance achieved. Include in the report supporting documentation describing those measures taken to achieve compliance and copies of any written plans or proceedings developed.
21. Please address all submittals, **other than appeals**, to:

Kenneth W. Marschner, Administrator
DES, WMD
6 Hazen Drive
Concord, New Hampshire 03301

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from DES's Public Information Center at (603) 271-2975 or at <http://www.des.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve Vermillion of the obligation to comply with the Order.

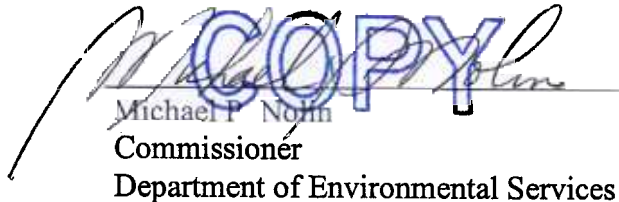
G. OTHER PROVISIONS

Please note that RSA Ch. 147-A provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute, as well as for violations of this Order. RSA 147-A:17 provides for civil forfeitures of up to \$50,000 for each day of a continuing violation, in addition to enforcement by injunctive relief.

DES will continue to monitor the compliance status of Vermillion to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules. Future violations will result in additional enforcement action being taken. Vermillion is required to maintain compliance with all on-going requirements, including those identified as being "COMPLETED" in Section E of the Order.

Vermillion may assert a confidentiality claim covering part or all of the information requested which constitutes a trade secret, in accordance with RSA 147-A:7, II. If no such claim accompanies the information when it is received by DES, it may be made available to the public by DES without further notice to Vermillion.


Philip P. O'Brien, Ph.D., P.G.
Director, Waste Management Division
Department of Environmental Services


Michael P. Nolin
Commissioner
Department of Environmental Services

CERTIFIED MAIL/RRR# 7000 1670 0000 0585 7738

cc: DB/RCRA/ORDER/ARCHIVE
Gretchen Rule, Administrator, DES Legal Unit
Public Information Coordinator, DES
Jennifer Patterson, NHDOJ-OAG
City Clerk, City of Nashua, NH
Al Provost, Press Foreman, Vermillion
Robyn Moses, Human Resources, Vermillion

e-mail: John Duclos, HWCS

enclosure: Hazardous Waste Generator Inspection Report
Waste Container Inventory